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Creating a Level Playing Field for Women Speech by the Chief Commissioner.

This speech was delivered to the Global Colloquium on Creating a Level Playing Field for Women, March 5th, 2004 in Washington D.C..

First, let me say how pleased I am to be here with you today. Permettez-moi de souhaiter la bienvenue aux membres de la délégation canadienne qui sont parmi nous. Although this is my first opportunity to attend this colloquium, our Commission has participated in this event since its inception three years ago. By all accounts, it has been a most educational and energizing experience, thanks in no small part to Irene Natividad whose passion and determination, I am told, know no bounds!

Once again this year, we are fortunate to have with us a Canadian delegation composed of senior business women from various sectors who will be sharing their knowledge of best practices in the field. To all members of the delegation, I want to say how much I appreciate your contribution.

I also want to thank my American counterpart, Cari Dominguez, who yesterday gave me an opportunity to meet the Commissioners and senior staff of the EEOC (Equal Employment Opportunity Commission). Our respective challenges are very similar and our approaches have many startling parallels as we both strive to find new ways by which to tackle human rights and equality issues in each of our countries. Which brings me to the subject of my presentation to you today.

Over the past thirty years, Canada has tried various approaches aimed at pursuing equality for women in the workplace. A voluntary program in the seventies created awareness but paid little dividends. This experience was examined by a Royal Commission on Equality in Employment, whose groundbreaking report twenty years ago gave rise to the first *Employment Equity Act*. In addition to women, the Act required employers under federal jurisdiction to achieve equality in employment for Aboriginal peoples, members of a visible minority, and persons with disabilities. However, this first Act had no compliance mechanism and simply relied on the good faith of employers. Critics soon termed it a "paper tiger", and advocated stronger legislation with mandatory enforcement mechanisms and appropriate sanctions.

Which brings us to today's legislation: a stronger *Employment Equity Act*, implemented in 1996, giving the Canadian Human Rights Commission the authority to audit the performance of employers in order to ascertain whether they are complying with the legislation, and to require action when they fail to do so. The most important aspect of this legislation is that it is based on the principle of cooperation and persuasion. Our auditors operate in a non adversarial context, and work together with employers to help them achieve compliance.

There is no question that the auditor's authority is far-reaching. At the end of an audit, among other things, an employer will have reviewed its employment practices, introduced best practices and special measures to correct systemic discrimination, and set hiring goals which will eventually lead to full representation. As a minimum, the employer will also have a harassment policy, an accommodation policy and an employment equity policy in place.

Most importantly, senior management will be accountable for results. These measures are enshrined in the employer's employment equity plan, and the auditor must have confidence that they will enable the employer to make reasonable progress towards achieving full representation.

Compliance does not end there. The Commission then monitors the employer and launches another audit if the organization fails to make reasonable progress. This is possibly the most important part of our mandate. Allow me to illustrate with a quote on this point from a submission received from a member of the Toronto Employment Equity Practitioners' Association during a review of the Act last year:

" In my experience, the audit process has been the most powerful tool, I might even say the only effective tool, to promote employment equity that I have seen so far in my career. My one urgent appeal is that the Commission show employers as soon as possible that it will be equally zealous in its second stage audits - that is, ensuring that organizations act on their plans and meet their numerical goals. I suspect that many employers still make their plans and put them in the bottom drawer considering themselves "finished" with employment equity. A few second stage audit dates, well publicized, could begin to dispel this notion." This, I assure you, we intend to do, as we move into implementation audits this year.

So what are the results of the audits to date? One of the most satisfying results is the level of cooperation received from employers, 91% of whom achieved compliance without the need for enforcement action, and all of whom achieved compliance without the need for a Tribunal.

In addition, a Parliamentary Review two years ago, to which Ms Dominguez contributed by appearing at the Committee, concluded that there is a continuing need for the legislation, widespread support for its principles and objectives, and that the Commission's approach was both effective and appropriate. When surveyed, an overwhelming majority of employers stated that the representation of designated groups in their workforce will increase as a result.

And that is the real measure of success: the progress made by designated groups. Here again, the trends are positive, as we find that their representation is higher among employers who have been audited than those who have not. But what does all this mean for women?

Over the past 17 years, since the introduction of the first *Employment Equity Act*, women have made considerable progress in the public and private sectors under federal jurisdiction. In 1987, they made up 40% of the private sector workforce. Their representation now stands at 45% against an availability of 53.%. Most importantly, their share of management positions is 20%, in line with the Canadian average of 21%, and there now exists a qualified pool of women to facilitate succession planning.

Women's representation varied considerably from one industrial sector to another. At 71%, it was highest in the banking sector where women are increasingly moving into professional and managerial positions. At close to 25%, their representation was lowest in the transportation sector, where a large proportion of jobs have not traditionally been held by women. Although they lag behind in this sector, their share of these positions has doubled since 1987.

In the public sector, women's representation went from 42% to 52.5% in the same period. Their share of executive positions is now 32%, and they make up 42.5% of all new executives.

However, women's employment continues to be more vulnerable. Most recent statistics indicate that 22% of women compared with 9% of men in the private sector worked in part-time or temporary jobs. This pattern holds true for visible minority women and women with disabilities, and is most noticeable for Aboriginal women where it affects 25% of the population. Even when employed full time, women earn only 81% of what men earn.

As you may know, the *Canadian Human Rights Act* makes it a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees working in the same establishment who are performing work of equal value.

I mentioned earlier that the auditors' role was far-reaching, and that the cooperation received from employers was exceptional. Let me illustrate with a few examples.

A few years ago, the Commission audited a trucking company, transportation being an important source of non-traditional work for women. This particular employer required extensive experience which acted as a barrier for women, especially for positions as truck drivers. As a result of the audit, these requirements were replaced with more generic competencies and the employer subsequently found the performance of women to be particularly strong.

Another organization required new applicants to have ten years of experience in the transportation industry for the effective operation of the business. Although its practice of "promoting from within" rewarded current employees, it also had the effect of drawing managers from its operational ranks which tended to be predominantly male. As a consequence of the audit, the employer re-examined both criteria and for some positions, now puts the focus on competencies rather than on experience; for others, it has lowered the number of years of experience required, making it feasible for women to qualify.

This company also recognized that if it wanted to attract and retain women in its workforce, it needed to offer a supportive work environment. It revised its harassment policy to address all types of harassment, and introduced a Harassment Elimination Program which includes the training of some truckers as harassment investigators. It also created a committee to oversee procedures, ensure impartiality and provide support during the investigation.

The Commission encounters numerous examples of best practices during its daily contacts with employers, and I wish I had more time to discuss these with you. But time is limited, and I know that our business leaders from Canada who are participating in this meeting are also eager to share these experiences.

Countries around the world are wrestling with the issue of economic prosperity and how best to ensure that no member of their society is marginalized. I take pride in saying that over recent years, Canada established itself as a world leader in the area of employment equity, as a number of countries modelled legislation and programs based on the Canadian experience. In August 2002, the United Nations' Committee on the Elimination of Racial Discrimination praised Canada for its extensive human rights legislation, and for broadening the scope of its *Employment Equity Act*. The Government of President Nelson Mandela used our legislation as a model, as did Northern Ireland, the Netherlands and Flemish governments. If I am permitted a quote from the Parliamentary Report reviewing the Act:

> "Continuous efforts to build an inclusive society are a hallmark of the Government of Canada policy.... Canada's strength as a nation, in large part, lies in its diversity and with the skills of its population. The *Employment Equity Act* is a legislated and practical expression of those commitments.... As noted in the 2002 Speech from the Throne, we now have a generation of Canadians who are global, at ease with change and diversity, optimistic and eager to create, innovate and excel."

Someone once said that a goal is a dream with a deadline. In order to reach our goal, we must have a clear destination. In the case of the Employment Equity Compliance Program, we have set as our true measure of success the improvement which employers will make in achieving full representation for members of designated groups. We will have to justify our actions and be accountable for results based on this ultimate goal. If individual employers set similar goals for themselves, we will reach our destination. The prospects are looking promising.

The Commission's mandate under the *Canadian Human Rights Act* also promotes gender diversity. One of the grounds of prohibited discrimination under the *Canadian Human Rights Act* is sex. Individual complaints of sex discrimination comprise 16% of the Commission's caseload - some 400 complaints per year. Over the year, the Commission has introduced a number of innovations to make it more efficient and effective. We have introduced a system of complaints triage to allow us to focus on those complaints which raise broad systemic human rights. We have also introduced creative alternatives to complaints to allow the Commission to use its limited resources most effectively.

To give you a concrete example in the area of gender equality - two years ago, the Elizabeth Fry society, a prisoners rights advocacy group, wrote to the Commission seeking to file a complaint about systemic discrimination against women prisoners. The Commission decided that, rather than investigating the complaints as individual cases and litigating them at Tribunal, we would prepare a Special Report to Parliament. We chose this route because we would be better able to make systemic recommendations in a Special Report rather than at Tribunal. We also considered that Parliament would be more effective in bringing about public debate and long-term change than the courts.

Last month we released the Special Report, *Protecting Their Rights*, with a number of sweeping recommendations for change to the correctional system to ensure the human rights of women prisoners were better protected. This is just one example of the innovative approaches to achieving full respect for women's human rights under our legislation.

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